

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2008-0042-WOC-E **TCEQ ID:** RN105304893 **CASE NO.:** 35149  
**RESPONDENT NAME:** Richard Martini

Page 1 of 2

|  |   |   |
|--|---|---|
| <b>ORDER TYPE:</b>   |   |   |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER  | <input type="checkbox"/> FINDINGS AGREED ORDER              | <input type="checkbox"/> FINDINGS ORDER FOLLOWING<br>SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER  | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL<br>ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER   | <input type="checkbox"/> EMERGENCY ORDER                    |   |
| <b>CASE TYPE:</b>  |   |   |
| <input type="checkbox"/> AIR   | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS<br>WASTE              |
| <input type="checkbox"/> PUBLIC WATER SUPPLY   | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION          |
| <input type="checkbox"/> WATER QUALITY   | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION<br>CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE   | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                       |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1306 East Anderson Road, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Type IV municipal solid waste landfill operator</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 16, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. John Shelton, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2563; Mr. Bryan Sinclair, Enforcement Division, MC 169, (512) 239-2171<br/> <b>Respondent:</b> Mr. Richard Martini, 9316 Spring Branch Drive, Houston, Texas 77080<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |   |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS<br>TAKEN/REQUIRED  |
|---|---|---|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 31, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 13, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>Failure to obtain a license issued by the Commission before engaging in activity, occupation, or profession for which a license is required, as documented during an investigation conducted on July 31, 2007. Specifically, the Respondent supervised the solid waste operations at the Facility without having an occupational license or obtaining a supervisor in training provisional letter from the Commission [30 TEX. ADMIN. CODE § 30.5(a) and TEX. WATER CODE § 37.003].</p> | <p><b>Total Assessed:</b> \$2,813</p> <p><b>Total Deferred:</b> \$562<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$1,125<br/> <b>Total Paid to General Revenue:</b> \$1,126</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent was issued a supervisor in training provisional letter from TCEQ on January 18, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See Attachment A)</p> |

**Attachment A**  
**Docket Number: 2008-0042-WOC-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

|                                |  |
|--------------------------------|--|
| <b>Respondent:</b>             | <b>Richard Martini</b>   |
| <b>Payable Penalty Amount:</b> | <b>Two Thousand Two Hundred Fifty-One Dollars (\$2,251)</b>                                  |
| <b>SEP Amount:</b>             | <b>One Thousand One Hundred Twenty-Five Dollars (\$1,125)</b>                                |
| <b>Type of SEP:</b>            | <b>Pre-approved</b>  |
| <b>Third-Party Recipient:</b>  | <b>Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash</b> |
| <b>Location of SEP:</b>        | <b>Harris County</b>   |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.



Richard Martini  
Agreed Order – Attachment A

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt  
Gulf Coast Waste Disposal Authority  
910 Bay Area Boulevard  
Houston, Texas 77058

## **3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.







Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

DATES

Assigned  
PCW

17-Dec-2007

14-Feb-2008

Screening

21-Dec-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent Richard Martini

Reg. Ent. Ref. No. RN105304893

Facility/Site Region 12-Houston

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No. 35149

Docket No. 2008-0042-WOC-E

Media Program(s) All Occupational Licenses

Multi-Media

No. of Violations 1

Order Type 1660

Enf. Coordinator John Shelton

EC's Team Enforcement Team 7

Admin. Penalty \$ Limit Minimum \$0 Maximum \$2,500

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$3,125

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0% Enhancement

Subtotals 2, 3, &amp; 7 \$0

Notes

The Respondent has not received any previous NOV's or Orders.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

10% Reduction

Subtotal 5 \$312

Before NOV

NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent came into compliance on January 18, 2008.

0% Enhancement\*

Subtotal 6 \$0

Total EB Amounts \$17

Approx. Cost of Compliance \$730

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

Final Subtotal \$2,813

## OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,813

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,813

## DEFERRAL

20%

Reduction

Adjustment -\$562

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

## PAYABLE PENALTY

\$2,251

Screening Date 21-Dec-2007

Docket No. 2008-0042-WOC-E

PCW

Respondent Richard Martini

Policy Revision 2 (September 2002)

Case ID No. 35149

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105304893

Media [Statute] All Occupational Licenses

Enf. Coordinator John Shelton

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The Respondent has not received any previous NOV's or Orders.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

|  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
|--|--|--|--|--|--------------------------------|--------------|--------------------------------|------------|----------------------|----------------------|----------------------|----------------------|----------------------|--------------|----------------------|--------------------------------|----------------------|----------------------|--|
| <b>Screening Date</b> 21-Dec-2007<br><b>Respondent</b> Richard Martini<br><b>Case ID No.</b> 35149<br><b>Reg. Ent. Reference No.</b> RN105304893<br><b>Media [Statute]</b> All Occupational Licenses<br><b>Enf. Coordinator</b> John Shelton<br><b>Violation Number</b> <input type="text" value="1"/><br><b>Rule Cite(s)</b> <input type="text" value="30 Tex. Admin. Code § 30.5(a) and Tex. Water Code § 37.003"/><br><b>Violation Description</b> <input type="text" value="Failed to obtain a license issued by the Commission before engaging in activity, occupation, or profession for which a license is required, as documented during an investigation conducted on July 31, 2007. Specifically, the Respondent supervised the solid waste operations at the Facility without having an occupational license or obtaining a supervisor in training provisional letter from the Commission."/> | <b>Docket No.</b> 2008-0042-WOC-E<br><b>PCW</b><br><i>Policy Revision 2 (September 2002)</i><br><i>PCW Revision November 6, 2007</i>   |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Base Penalty</b> <input type="text" value="\$2,500"/>   |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>OR</b>  | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;"><b>Major</b></td> <td style="text-align: center;"><b>Moderate</b></td> <td style="text-align: center;"><b>Minor</b></td> <td></td> </tr> <tr> <td></td> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> <tr> <td></td> <td>Potential</td> <td><input type="text" value="x"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table> <p style="text-align: right;"><b>Percent</b> <input type="text" value="25%"/></p> |  | <b>Release</b>   | <b>Major</b>   | <b>Moderate</b>                | <b>Minor</b> |                                |            | Actual               | <input type="text"/> | <input type="text"/> | <input type="text"/> |                      |              | Potential            | <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> |  |
|  | <b>Release</b>   | <b>Major</b>   | <b>Moderate</b>  | <b>Minor</b>   |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
|  | Actual   | <input type="text"/>   | <input type="text"/>   | <input type="text"/>   |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
|  | Potential  | <input type="text" value="x"/>                                   | <input type="text"/>   | <input type="text"/>   |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>&gt;&gt; Programmatic Matrix</b>  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
|  | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;"><b>Falsification</b></td> <td style="text-align: center;"><b>Major</b></td> <td style="text-align: center;"><b>Moderate</b></td> <td style="text-align: center;"><b>Minor</b></td> <td></td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table> <p style="text-align: right;"><b>Percent</b> <input type="text" value="0%"/></p>  |  | <b>Falsification</b>   | <b>Major</b>   | <b>Moderate</b>                | <b>Minor</b> |                                |            | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |                      |              |                      |                                |                      |                      |  |
|  | <b>Falsification</b>   | <b>Major</b>   | <b>Moderate</b>  | <b>Minor</b>   |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
|  | <input type="text"/>   | <input type="text"/>   | <input type="text"/>   | <input type="text"/>   |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Matrix Notes</b>  | <input type="text" value="Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors."/>  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Adjustment</b> <input type="text" value="\$1,875"/>   |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <input type="text" value="\$625"/>   |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Violation Events</b>  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <table style="width: 100%;"> <tr> <td style="width: 40%;"> <b>Number of Violation Events</b> <input type="text" value="5"/> </td> <td style="width: 20%;"></td> <td style="width: 40%;"> <b>Number of violation days</b> <input type="text" value="144"/> </td> </tr> </table>   |  | <b>Number of Violation Events</b> <input type="text" value="5"/> |  | <b>Number of violation days</b> <input type="text" value="144"/> |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Number of Violation Events</b> <input type="text" value="5"/>   |  | <b>Number of violation days</b> <input type="text" value="144"/> |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <table style="width: 100%;"> <tr> <td style="width: 30%; vertical-align: top;"> <b>mark only one with an x</b> </td> <td style="width: 70%;"> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table> </td> </tr> </table>  |  | <b>mark only one with an x</b>                                   | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table> | daily  | <input type="text"/>           | monthly      | <input type="text" value="x"/> | quarterly  | <input type="text"/> | semiannual           | <input type="text"/> | annual               | <input type="text"/> | single event | <input type="text"/> |                                |                      |                      |  |
| <b>mark only one with an x</b>   | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>   | daily  | <input type="text"/>   | monthly  | <input type="text" value="x"/> | quarterly    | <input type="text"/>           | semiannual | <input type="text"/> | annual               | <input type="text"/> | single event         | <input type="text"/> |              |                      |                                |                      |                      |  |
| daily  | <input type="text"/>   |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| monthly  | <input type="text" value="x"/>   |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| quarterly  | <input type="text"/>   |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| semiannual   | <input type="text"/>   |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| annual   | <input type="text"/>   |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| single event   | <input type="text"/>   |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Violation Base Penalty</b> <input type="text" value="\$3,125"/>   |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <input type="text" value="Five monthly events are recommended from the July 31, 2007 investigation date to the December 21, 2007 screening date."/>  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Economic Benefit (EB) for this violation</b>  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <table style="width: 100%;"> <tr> <td style="width: 50%;"> <b>Estimated EB Amount</b> <input type="text" value="\$17"/> </td> <td style="width: 50%;"> <b>Statutory Limit Test</b> </td> </tr> </table>  |  | <b>Estimated EB Amount</b> <input type="text" value="\$17"/>     | <b>Statutory Limit Test</b>  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Estimated EB Amount</b> <input type="text" value="\$17"/>   | <b>Statutory Limit Test</b>  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>Violation Final Penalty Total</b> <input type="text" value="\$2,813"/>  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,813"/>  |  |  |  |  |                                |              |                                |            |                      |                      |                      |                      |                      |              |                      |                                |                      |                      |  |

**Economic Benefit Worksheet**

**Respondent** Richard Martini  
**Case ID No.** 35149  
**Reg. Ent. Reference No.** RN105304893  
**Media** All Occupational Licenses  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$  |           |               |            |     |                |               |           |

**Delayed Costs**

|                          |       |             |             |     |      |     |      |
|--------------------------|-------|-------------|-------------|-----|------|-----|------|
| Equipment                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |       |             |             | 0.0 | \$0  | \$0 | \$0  |
| Land                     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Training/Sampling        | \$625 | 31-Jul-2007 | 18-Jan-2008 | 0.5 | \$15 | n/a | \$15 |
| Remediation/Disposal     |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Permit Costs             |       |             |             | 0.0 | \$0  | n/a | \$0  |
| Other (as needed)        | \$105 | 31-Jul-2007 | 18-Jan-2008 | 0.5 | \$2  | n/a | \$2  |

Notes for DELAYED costs

Estimated training and licensing costs to obtain a MSW supervisor's occupational license. Date required is the date of the investigation and Final date is the date the Respondent came into compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$730

TOTAL

\$17

# Compliance History

Customer/Respondent/Owner-Operator: CN603228784 MARTINI, RICHARD Classification: Rating:  
Regulated Entity: RN105304893 RICHARD MARTINI Classification: Site Rating:  
ID Number(s):  
Location: 9316 Spring Branch Drive, Houston, TX, 77080  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: December 21, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 21, 2002 to December 21, 2007  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: John Shelton Phone: (512) 239-2563

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 12/13/2007 (571878)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
RICHARD MARTINI  
RN105304893**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0042-WOC-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Richard Martini ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 37. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent resides at 9316 Spring Branch Drive in Houston, Harris County, Texas, and supervises the operations of a Type IV municipal solid waste landfill at 1306 East Anderson Road in Houston, Harris County, Texas (the "Facility").
2. TCEQ has general authority to regulate solid waste facilities and licensing of persons who supervise the operation or maintenance of solid waste facilities, pursuant to TEX. WATER CODE ch. 37.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 18, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.





6. An administrative penalty in the amount of Two Thousand Eight Hundred Thirteen Dollars (\$2,813) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand One Hundred Twenty-Six Dollars (\$1,126) of the administrative penalty and Five Hundred Sixty-Two Dollars (\$562) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. One Thousand One Hundred Twenty-Five Dollars (\$1,125) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent was issued a supervisor in training provisional letter from TCEQ on January 18, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As supervisor of the Facility, the Respondent is alleged to have failed to obtain a license issued by the Commission before engaging in an activity, occupation, or profession for which a license is required, in violation of 30 TEX. ADMIN. CODE § 30.5(a) and TEX. WATER CODE § 37.003, as documented during an investigation conducted on July 31, 2007. Specifically, the Respondent supervised the solid waste operations at the Facility without having an occupational license or obtaining a supervisor in training provisional letter from the Commission.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Richard Martini, Docket No. 2008-0042-WOC-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand One Hundred Twenty-Five Dollars (\$1,125) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
4. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
5. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
6. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



Mr. Richard Martini  
DOCKET NO. 2008-0042-WOC-E  
Page 4

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director


7/23/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

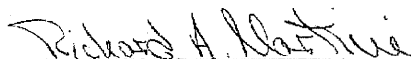
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

6-25-08  
Date

  
Name (Printed or typed)  
Authorized Representative of  
Richard Martini

\_\_\_\_\_  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



**Attachment A**  
**Docket Number: 2008-0042-WOC-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

|                                |  |
|--------------------------------|--|
| <b>Respondent:</b>             | <b>Richard Martini</b>   |
| <b>Payable Penalty Amount:</b> | <b>Two Thousand Two Hundred Fifty-One Dollars (\$2,251)</b>                                  |
| <b>SEP Amount:</b>             | <b>One Thousand One Hundred Twenty-Five Dollars (\$1,125)</b>                                |
| <b>Type of SEP:</b>            | <b>Pre-approved</b>  |
| <b>Third-Party Recipient:</b>  | <b>Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash</b> |
| <b>Location of SEP:</b>        | <b>Harris County</b>   |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.





Richard Martini  
Agreed Order – Attachment A

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt  
Gulf Coast Waste Disposal Authority  
910 Bay Area Boulevard  
Houston, Texas 77058

## **3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

## **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.



**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

